

# Minnesota District Judges Association

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612/221-9004

September 1, 1981

Mr. John S. Pillsbury, Jr.  
C/O Minnesota Advisory Commission  
on Cameras in the Courtroom  
123 State Capitol Building  
St. Paul, MN 55155

Dear Mr. Pillsbury:

In reply to your recent letter to our organization concerning the September 10, 1981 dead-line for filing a proposed agenda and witness list for those who wished to call their views to the attention of the Commission, be advised that the Executive Committee of our Association has authorized me to present our position before the Commission by way of this letter.

In June of 1978, at our Annual Meeting in St. Paul, the Association adopted a resolution wherein we "opposed the use of cameras and recording equipment in all trial courtrooms in this state."

Thereafter, in June of 1979, at our Annual Meeting in Bloomington, we reaffirmed this position by adopting a Committee Report of our News Media and the Courtroom Committee which opposed the use of cameras in the trial courtrooms of our state by a vote of approximately 52 to 9.

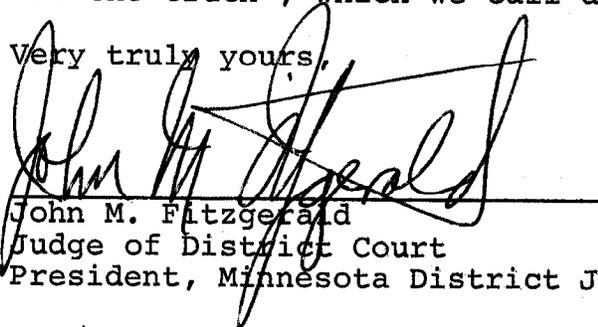
More recently, in June of 1980, at our Annual Meeting in Rochester, we again affirmed our opposition to this concept by approving a motion to adopt the Minority Report of the Minnesota State Bar Association Joint Bar, Press, Radio and TV Committee, which opposed any change in Minnesota Standards of Judicial Responsibility No. 3a.7.

The matter was not addressed at our June 1981 Meeting in Duluth because it had not been placed on the agenda.

Mr. John S. Pillsbury, Jr.  
September 1, 1981  
page 2.

I believe that it is fair to state that the great majority of the members of our Association of trial judges are of the opinion that the pressure for this change is motivated more by an interest in the "entertainment" value involved in a relaxation of the Standard than by an interest in any "educational" value that might result therefrom. I also think that the Commission might well keep in mind in rendering their recommendations to the Supreme Court on this matter that the trial judges are the persons primarily charged with the responsibility of making sure that the "search for the truth", which we call a trial, is fairly conducted.

Very truly yours,



John M. Fitzgerald  
Judge of District Court  
President, Minnesota District Judges Association

JMF/clm  
enclosure MSBA Minority Report

### MINORITY STATEMENT

The undersigned members of the committee oppose any change in Minnesota Standards of Judicial Responsibility No. IIA.6 [ABA Judicial Canon No. 3A.(7)], as well as any experimental program of cameras in the trial courts, for the following reasons:

1. The determination of whether cameras and electronic media should be in the courtroom and whether their presence will deny a fair trial is the primary responsibility of the trial bench, assisted by the trial bar. Rules of Procedure, therefore, which deprive the trial bench and bar of this function and responsibility are, therefore, inappropriate.

2. While the physical distractions of cameras and other electronic devices have been lessened by state-of-the-art improvements, the subtle psychological distractions resulting from their presence have sufficient adverse impact upon jurors and witnesses to detract from the full presentation and careful evaluation of evidence in both civil and criminal cases.

3. Since commercial television stations would offer minimal coverage of court proceedings, their impact on the public's perception of the judicial system would also be minimal.

4. The courts of this state should not become vehicles for entertainment or involved in the perennial ratings war between competing television stations.

5. There are two effective means of educating the public in the intricacies of the judicial system, and both of them are available today. Surveys of jurors show that the most desirable method is to involve them as jurors, because only in this way can they get a contextually correct perspective of the system. As an alternative to this method, complete "gavel-to-gavel" coverage of a full trial by a recognized educational institution for use in its curriculum would have similar value. This, of course, is presently available under Canon 3A.7.

6. There is neither urgency nor inevitability about the use of cameras and other electronic devices in the courtrooms, except in the minds of media people. While the media continues to urge their use, the trial bench and trial bar are strongly opposed to it.

7. The three reasons given by Chief Justice Warren in his concurring opinion in *Estes v. Texas*, 381 U.S. 532, in support of his conclusion that televising criminal trials violates the Sixth and Fourteenth Amendment rights of criminal defendants have the same validity today as they did at the time of *Estes* and are as violative of the right to a fair trial in a criminal case today as they were at that time. Those reasons are as follows:

a. Televising trials would divert them from their proper purpose and would have an inevitable impact on the participants.

b. Televising trials would give the public the wrong impression about the purpose of trials, thus detracting from the dignity of court proceedings and lessening the reliability of them.

c. Televising trials singles out certain defendants and subjects them to trials under prejudicial conditions not experienced by others.

Respectfully submitted,  
The Honorable Kenneth W. Bull,  
Mark W. Gehan, Jr.,  
The Honorable Otis H. Godfrey,  
William J. Mauzy,  
The Honorable Hyam Segell,  
The Honorable Crane Winton.

John D. Hickey



STATE OF MINNESOTA  
DISTRICT COURT  
SECOND DISTRICT

JOSEPH P. SUMMERS  
JUDGE

September 9, 1981

Mr. John S. Pillsbury  
Advisory Committee on Cameras in the Court  
Minnesota Supreme Court  
State Capitol  
St. Paul, MN. 55155

Dear Mr. Pillsbury:

Although the Minnesota District Judges' Association is on record as opposed to allowing coverage of the courts through modern technology, there is a substantial minority of judges who believe that radio, television, and still camera can have access to court proceedings without hurting the process or the participants.

I hold that belief myself. The arguments pro and con have been repeated ad nauseam and I shall not go into them except to say that both sides proceed from visceral reactions rather than reason.

I do wish to call to the committee's attention my personal belief that I can accommodate electronic and photographic coverage in my court without any adverse effect on the dispensation of justice and my feeling that such coverage would be an important step forward in improving citizen support for the legal system.

Sincerely,

*Joseph P. Summers*  
JOSEPH P. SUMMERS

JPS:hk

DISTRICT COURT OF MINNESOTA  
SIXTH JUDICIAL DISTRICT  
VIRGINIA  
55792



CHAMBERS OF  
MITCHELL A. DUBOW  
JUDGE

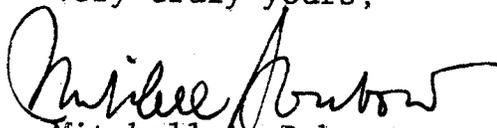
September 4, 1981

Mr. Sidney E. Kaner, Member Minnesota  
Advisory Commission on Cameras in the Courtroom  
508 Alworth Building  
Duluth, Minnesota 55802

Dear Mr. Kaner:

In response to your communication dated August 24, 1981, addressed to the six judges of the District Court of the Sixth Judicial District, and in their behalf, I wish to state that our unanimous view is in complete support of the position taken by the Minnesota District Judges Association in opposition to the proposed modification of Canon 3A(7) of the Minnesota Code of Judicial conduct relating to cameras in the courtroom, as stated in the attached copy of Resolution adopted by the Association.

Very truly yours,

  
Mitchell A. Dubow  
Chief Judge

cc: The Honorable John M. Fitzgerald, President,  
Minnesota District Judges Association

pc: The Honorable Donald C. Odden  
The Honorable Jack J. Litman  
The Honorable David S. Bouschor  
The Honorable Charles T. Barnes  
The Honorable Joseph R. Scherkenbach

MAD/dmu

## RESOLUTION

WHEREAS, on January 26, 1981, in its decision in *Chandler v. Florida* the United States Supreme Court determined that because it has no supervisory authority over state courts, it could not prohibit in all cases experiments involving electronic media, and,

WHEREAS, there is no comprehensive empirical data from which to determine whether the subtle psychological distractions resulting from the presence of cameras and other electronic devices have an adverse impact upon jurors and witnesses, and,

WHEREAS, the concurring opinion of Justice White in *Chandler v. Florida* recognizes that there are real risks in televising criminal trials over a defendant's objections and that all trial courts should be free to avoid this hazard by not permitting televised trials, and,

WHEREAS, although television technology has advanced since the decision in *Estes v. Texas* and the physical distractions of cameras have been lessened by state-of-the-art improvements, the "subtle capacities for serious mischief," which may be caused by the extraneous influence of television cameras, have in no way been diminished, and,

WHEREAS, all of the federal courts of this country and the vast majority of state trial courts continue to recognize the serious problems which may result from the use of cameras and other recording devices in a trial court,

Now, therefore, BE IT RESOLVED that the Minnesota District Judges Association declares its continuing opposition to the use of cameras and recording equipment in all trial courts of this state and to any change in Canon 3(A)7 of the Code of Judicial Conduct.

# District Court of Minnesota

NINTH JUDICIAL DISTRICT

CHAMBERS OF JUDGE JOHN A. SPELLACY/COURTHOUSE/P. O. BOX 237/GRAND RAPIDS, MINN. 55744



September 10, 1981

Mr. John S. Pillsbury  
Advisory Committee on Cameras in the Court  
Minnesota Supreme Court  
State Capitol  
St. Paul, Minnesota 55155

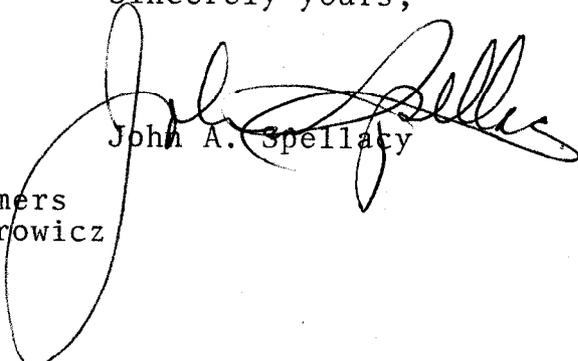
Dear Mr. Pillsbury:

I wish to echo the sentiments of Judge Summers, so aptly expressed in his letter of September 9, 1981. I am informed by Judge Richard Kantorowicz that the "minority" of Judges who are not opposed to camera coverage is growing and, at least among District Judges, is within 10 votes of becoming a majority.

I speak only for myself when I suggest that some Judges may oppose cameras because they are not anxious for the public to see how they manage a Court Room and what hours they work. I believe the public has a right to see what is going on, and that the value of public knowledge and understanding greatly outweighs potential prejudice to litigants.

There is bound to be an occasional clash between the Court system and news media. Open coverage of Court trials will, in the long run, foster greater responsibility and understanding on the part of those seeking the right to film and photograph Court proceedings.

Sincerely yours,

  
John A. Spellacy

cc: Honorable Joseph P. Summers  
Honorable Richard Kantorowicz

MARTIN J. MANSUR  
JUDGE



DAKOTA COUNTY GOVERNMENT CENTER  
HASTINGS, MINNESOTA 55033

STATE OF MINNESOTA  
DISTRICT COURT, FIRST JUDICIAL DISTRICT

September 25, 1981

Mr. John Pillsbury, Jr.  
Chairman, Minnesota Advisory Commission  
on Cameras in the Courtroom  
State Capitol  
St. Paul, Minnesota 55155

SUPREME COURT

FILED

SEP 30 1981

JOHN McCARTHY,

CLERK

Dear Mr. Pillsbury:

I am writing to you to voice my opposition to the use of cameras in the courtrooms. My opposition is based upon over thirteen years of experience as a trial judge in every level of our state trial courts.

It is difficult to envision under what circumstances that television coverage of any litigation would be informative to the public. To be fair to all participants the coverage would have to include the entire trial, not some specific evidence which would tend to be taken out of context and not be given its full meaning. The public not only has a right to know but also a right to be informed. The doors of the courtrooms are in practically all cases open for the public. The argument that people cannot take time off from work is without merit, since I am at a loss to determine how a thirty-second flash on the screen of some aspect of any trial will fulfill this right.

Should there be a desire to film an entire trial for educational purposes in any of our schools, I am of the opinion that the Canons of Judicial Conduct as now promulgated provide for the appropriate relief to allow for such filming, and if there be any doubt then an amendment to that end could be effected.

Chief Justice Burger has stated that use of cameras is permissible in the state courts if the individual states so mandate, but the use of cameras is forbidden in the federal courts. One does not have to be a legal scholar to appreciate the redundancy of such a pronouncement. Certainly the state courts as well as the federal courts affect the rights of our citizens and the public's right to know. I am at a loss to find any basis for this distinction, save and except the federal judiciary sees no benefit whatsoever to be derived from the use of cameras in their courtrooms.

Our strength as a democracy is built in part upon the separation of our three branches of government, and we who serve in the judicial branch strive to give meaning to "one's right to be tried by a fair and impartial jury of one's peers." The introduction of cameras in the courtrooms will hinder this constitutional right. What, may I ask, is

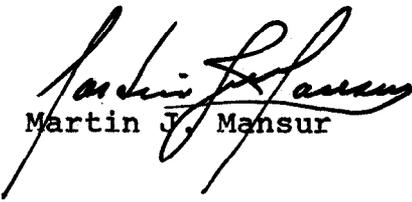
more important to our form of government, the right of litigants to have their claims, regardless of size and even merit, litigated in a judicial atmosphere or the need to present on the evening news in between commercials ranging from dog food to Tampons matters of great importance to our litigants and to our form of government.

You should be, and I have no reason to believe that you are not, proud of our judiciary in this state. We rank near the top nationwide, and we are proud of our achievements, and we shall continue to dedicate ourselves to serve the people of this state and to guarantee to all of our residents who have need to seek redress in the courts the fundamental concept of fairness and impartiality guaranteed to them by our constitution.

Finally, please, before you decide, you and members of your commission should ask yourselves: "What purpose will a one-minute report of any trial on the television screen serve?"

Thank you.

Sincerely,



Martin J. Mansur

MJM/ovw

cc: Honorable Hyam Segell



# OFFICE OF THE PUBLIC DEFENDER

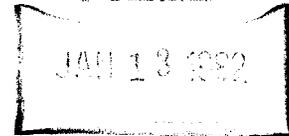
605 Minnesota Building, St. Paul, Minn., 55101 (612) 298-5797

*William E. Falvey, Chief Public Defender*

October 1, 1981

SUPREME COURT

FILED



JOHN McCARTHY  
CLERK

Mr. John Pillsbury, Jr., Chairman  
Minnesota Advisory Commission on  
Cameras in the Courtroom  
Minnesota Supreme Court  
State Capitol Building  
St. Paul, MN 55155

Dear Chairman Pillsbury:

Since I cannot personally appear at your upcoming hearings on the subject of "Cameras in the Courtroom" I am writing this letter to express my views, and I would ask that my letter become part of your records.

I have been an attorney since 1966 and Chief Public Defender of Ramsey County since October of 1973. Throughout my legal career I have been intimately involved with the Criminal Justice System at the trial court level. At the present time my office represents over 8,000 people a year in criminal and juvenile proceedings.

I am unalterably opposed to cameras in the courtroom, particularly in criminal cases. I believe that such media presence in a courtroom would seriously jeopardize the defendant's right to a fair trial, and to allow the same would dangerously undermine our criminal justice system.

From many years of dealing with people in courtroom settings, it is my belief that human nature is such that with the eye of the camera upon them, judges, prosecutors, defense counsel, witnesses and jurors would have a tendency to act or react in ways inconsistent with substantive fairness.

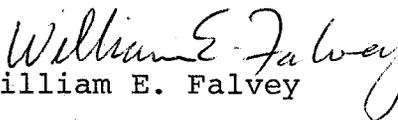
Mr. John Pillsbury  
Page Two

October 1, 1981

The trial of a lawsuit, particularly a criminal lawsuit, is very serious business in that the rights of the public and of individuals are at stake. In my view, cameras would only contribute to a carnival-type atmosphere and in no way serve any compelling public interest.

Again, I would hope that you would make the comments contained in this letter a part of your record.

Respectfully submitted,

  
William E. Falvey

WEF/cms



UNIVERSITY OF MINNESOTA  
TWIN CITIES

Department of Psychology  
Elliott Hall  
75 East River Road  
Minneapolis, Minnesota 55455

September 14, 1981

Ms. Deb Regan  
Supreme Court  
State Capitol, Room 230  
St. Paul, MN 55155

**SUPREME COURT  
FILED**

SEP 15 1981

**JOHN McCARTHY**  
CLERK

Dear Ms. Regan:

On the basis of my conversations with you, Mr. Paul Hannah of the Oppenheimer law firm, and Mr. Jim Keeler of the Minnesota State Bar Association, it is apparent that the Commission appointed by the Supreme Court to study Cameras in the Courtroom might be interested in conducting a social science evaluation of the effects (or lack of effects) associated with media coverage of the courtroom. As a psychologist with research interests and publications in psychology and the law, I would like to offer my services to the Commission should the Commission decide to conduct such an evaluation. Other states like Florida and Wisconsin have conducted such research and I am very familiar with their efforts. In fact, as I mentioned to you on the phone, I was one of the social science consultants to The New York Times coverage of this issue. I am currently the national membership chair for the division of Psychology and Law of the American Psychological Association and hopefully will be joining the Law faculty here as an adjunct professor to teach Psychology and Law as well as social science and public policy beginning in 1982-83. Dean Robert Stein at the U of Mn Law School knows me and can be contacted as a reference.

I have some very definite opinions about the quality of previous research that has been conducted in this area and some very definite opinions about the type of inferentially strong and policy relevant research that I believe the state of Minnesota should conduct to evaluate the impact of cameras in the courtroom (apropos Canon 3A-7). I would appreciate if you would inform the Commission of my interest in discussing these ideas with them should the Commission decide to pursue a full-scale research evaluation.

Should you have any further questions, please do not hesitate to call me at 373-2831.

Sincerely,

Eugene Borgida, Ph.D.  
Associate Professor

EB:cf